

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1093

Introduced by Stuhr, 24; Dw. Pedersen, 39; Thompson, 14

Read first time January 15, 2002

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Treatment and Corrections Act;
2 to amend sections 83-189, 83-190, 83-192, 83-1,101,
3 83-1,135, 83-932, and 83-933, Reissue Revised Statutes of
4 Nebraska; to change and transfer provisions relating to
5 the Board of Parole, the Office of Parole Administration,
6 and the Department of Correctional Services; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-189, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 83-189. The Board of Parole shall consist of five
4 full-time members to be appointed by the Governor. The members of
5 the board shall be of good character and judicious temperament.
6 The members of the board shall have all the powers and duties of
7 board members commencing on the date of appointment. The
8 appointments shall be subject to confirmation by the Legislature at
9 its next regular session following the appointments. At least one
10 member of the board shall be of an ethnic minority group, at least
11 one member shall be female, ~~and~~ at least one member shall have a
12 professional background in corrections, at least one member shall
13 have a professional background in mental health or substance abuse
14 treatment, and not more than two members may have a professional
15 background in law enforcement.

16 One of the five members of the board shall be designated
17 as chairperson by the Governor. In addition to the chairperson's
18 duties as a member of the board as prescribed in subsection (1) of
19 section 83-192, he or she shall supervise the administration and
20 operation of the board and shall carry out the duties prescribed in
21 subsection (2) of such section.

22 Sec. 2. Section 83-190, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 83-190. The members of the Board of Parole shall have
25 terms of office of six years and until their successors are
26 appointed. The successors shall be appointed in the same manner as
27 provided for the members first appointed, and a vacancy occurring
28 before expiration of a term of office shall be similarly filled for

1 the unexpired term. A member of the board may not be reappointed.
2 The members of the board may be removed only for disability,
3 neglect of duty, or malfeasance in office by the Board of Pardons
4 after a hearing. The Board of Pardons shall promptly file in the
5 office of the Secretary of State a complete statement of the
6 charges, its findings and disposition, and a complete record of the
7 proceedings.

8 Sec. 3. Section 83-192, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 83-192. (1) The Board of Parole shall:

11 (a) Determine the time of release on parole of committed
12 offenders eligible for such release;

13 (b) Fix the conditions of parole, revoke parole, issue or
14 authorize the issuance of warrants for the arrest of parole
15 violators, and impose other sanctions short of revocation for
16 violation of conditions of parole;

17 (c) Determine the time of discharge from parole;

18 (d) Visit and inspect any facility, state or local, for
19 the detention of persons charged with or convicted of an offense
20 and for the safekeeping of such other persons as may be remanded to
21 such facility in accordance with law;

22 (e) Within two years after July 1, 1994, implement
23 objective parole risk-assessment criteria which shall be used by
24 the members of the board as additional considerations in
25 determining whether to grant or deny parole to any particular
26 offender who is eligible for parole. For purposes of this
27 subdivision, objective parole risk-assessment criteria shall mean
28 criteria which statistically have been shown to be good predictors

1 of risk to society of release on parole;

2 (f) Review the record of every committed offender as
3 follows:

4 (i) If a committed offender has a parole eligibility date
5 within five years of his or her date of incarceration, his or her
6 record shall be reviewed annually;

7 (ii) If a committed offender has a parole eligibility
8 date which is more than five but not more than ten years from his
9 or her date of incarceration, his or her record shall be reviewed
10 during the first year of incarceration, and when he or she is
11 within three years of his or her earliest parole eligibility date,
12 his or her record shall be reviewed annually;

13 (iii) If a committed offender has a parole eligibility
14 date which is more than ten but not more than thirty years from his
15 or her date of incarceration, his or her record shall be reviewed
16 during the first year of incarceration, every five years thereafter
17 until he or she is within five years of his or her earliest parole
18 eligibility date, and annually thereafter;

19 (iv) If a committed offender has a parole eligibility
20 date which is more than thirty years from his or her date of
21 incarceration, his or her record shall be reviewed during his or
22 her first, tenth, and twentieth year of incarceration, and when he
23 or she is within five years of his or her earliest parole
24 eligibility date, his or her record shall be reviewed annually; and

25 (v) If a committed offender is serving a minimum life
26 sentence, his or her record shall be reviewed during the first year
27 of incarceration and every ten years thereafter until such time as
28 the sentence is commuted. If such sentence is commuted, the

1 committed offender's record shall be reviewed annually when he or
2 she is within five years of his or her earliest parole eligibility
3 date.

4 Such review shall include the circumstances of the
5 offense, the presentence investigation report, the committed
6 offender's previous social history and criminal record, his or her
7 conduct, employment, and attitude during commitment, and the
8 reports of such physical and mental examinations as have been made.
9 The board shall meet with such committed offender and counsel him
10 or her concerning his or her progress and prospects for future
11 parole.

12 The review schedule shall be based on court-imposed
13 sentences or statutory minimum sentences, whichever are greater.
14 Nothing in such schedule shall prohibit the board from reviewing a
15 committed offender's case at any time;

16 (g) Appoint and remove all employees of the board as
17 prescribed by the State Personnel System and delegate appropriate
18 powers and duties to them; ~~and~~

19 (h) Coordinate all adult parole programs and services in
20 the state and supervise the administration of such programs and
21 services; and

22 (i) Exercise all powers and perform all duties necessary
23 and proper in carrying out its responsibilities of the board under
24 the Nebraska Treatment and Corrections Act.

25 (2) The chairperson of the board shall:

26 (a) Supervise the administration and operation of the
27 board;

28 (b) Serve in an advisory capacity to the director in

1 administering parole services within any facility and in the
2 community;

3 (c) Interpret the parole program to the public with a
4 view toward developing a broad base of public support;

5 (d) Conduct research for the purpose of evaluating and
6 improving the effectiveness of the parole system;

7 (e) Recommend parole legislation to the Governor;

8 (f) Adopt and promulgate rules and regulations for the
9 administration and operation of the board; and

10 (g) Exercise all other powers and perform all other
11 duties necessary and proper in carrying out his or her
12 responsibilities as chairperson.

13 (3) The provisions of this section shall not prohibit a
14 committed offender from requesting that the board review his or her
15 record, except that the board shall not be required to review a
16 committed offender's record more than once a year.

17 Sec. 4. Section 83-1,101, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 83-1,101. ~~The Director of Correctional Services with the~~
20 ~~consent of chairperson of~~ the Board of Parole, with the consent of
21 the board, shall appoint a Parole Administrator, who shall be a
22 person with appropriate experience in the field of corrections, or
23 with training in relevant disciplines at a recognized university.

24 Sec. 5. Section 83-933, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 ~~83-933.~~ The Office of Parole Administration shall be
27 within the ~~Division of Community-Centered Services~~ Board of Parole.
28 Subject to the supervision of the ~~assistant director of the~~

1 ~~division board~~, the Parole Administrator shall be charged with the
2 administration of parole services in the community pursuant to the
3 provisions of section 83-1,102 and administration of the Uniform
4 Act for Out-of-State Parolee Supervision.

5 Sec. 6. Section 83-1,135, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 83-1,135. Sections 83-170 to 83-1,135 and section 5 of
8 this act shall be known and may be cited as the Nebraska Treatment
9 and Corrections Act.

10 Sec. 7. Section 83-932, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-932. The Division of Community-Centered Services
13 shall:

14 (1) ~~Coordinate all adult parole programs and services in~~
15 ~~the state and supervise the administration of such programs and~~
16 ~~services;~~

17 ~~(2)~~ Cooperate with the Division of Adult Services in the
18 coordination of volunteer programs in the adult correctional
19 facilities;

20 ~~(3)~~ (2) Coordinate and supervise community educational
21 programs to increase community awareness and understanding of the
22 community rehabilitative programs of the division; and

23 ~~(4)~~ (3) Perform all duties necessary to carry out the
24 provisions of this section.

25 Sec. 8. Original sections 83-189, 83-190, 83-192,
26 83-1,101, 83-1,135, 83-932, and 83-933, Reissue Revised Statutes of
27 Nebraska, are repealed.